

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Tevaris A. Burton,	)	
	)	
Plaintiff,	)	C/A No. 2:14-4429-TMC
	)	
vs.	)	<b>ORDER</b>
	)	
James Martin, Lieutenant, et al.,	)	
	)	
Defendants.	)	
	)	

Plaintiff, Tevaris A. Burton, a state prisoner proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. Before the court is the magistrate judge's Report and Recommendation ("Report"), recommending that Plaintiff's action be dismissed with prejudice for lack of prosecution. (ECF No. 35). Plaintiff has not filed any objections to the Report. The Report was mailed to both addresses provided by Plaintiff. (ECF No. 36). The Report was returned from the Evans Correctional Institution address as undeliverable and marked "Return to Sender, No Longer at this Address." (ECF No. 37). The court has reviewed the South Carolina Department of Corrections' website, and it appears that Plaintiff is no longer incarcerated. The Report has not been returned as undeliverable from the second address provided by Plaintiff, and thus it is presumed that Plaintiff received the Report, but has neglected to comply with it within the time permitted under the Report.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the

absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the court adopts the Report (ECF No. 35) and incorporates it herein. Accordingly, Plaintiff’s action is **DISMISSED** with prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982). *See Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

**IT IS SO ORDERED.**

s/Timothy M. Cain  
Timothy M. Cain  
United States District Judge

November 30, 2015  
Anderson, South Carolina

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.